Supreme Court, U.S.
FILED

091517 JUN 7 - 2010

OFFICE OF THE CLERK

No.

In the Supreme Court of the United States

Edward H. Flint

Petitioner

v.

James Shake, Judge-et al

Respondent

On Petition for a Writ of Certiorari to the Court of Appeals for the Sixth Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1- Can Judges be granted absolute judicial immunity after violating Kentucky Supreme Court Rules of Practice and Procedures to illegally gain control of a case for political campaign contributions and to injury a party?

2- Was Petitioner denied Due Process by Respondents judges who violated Kentucky Supreme Court Rules?

3- Does a judge have jurisdiction of a case that was illegally obtained by violating Supreme Court's rules?

4- If a judge violates Supreme Court Rules, are they entitled to absolute judicial immunity?

5- If a judge violates a law of a state are they entitled to absolute judicial immunity?

6- Is Stump v. Sparkman 435 U.S 349,57 (1978) constitutional regarding immunity for judges?

In the Supreme Court of the United States

NO.

Edward H. Flint, **Petitioner,**

v.

JAMES SHAKE, Judge et, al **Respondent**

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

Edward H. Flint the Petitioner prays, that a Writ of Certiorari issue to review the judgment of the Sixth Circuit Court case No. 09-5577 entered in the above case on December 30, 2010

OPINION BELOW

The judgment of the Sixth Circuit entered on December 30, 2009

JURISDICTION

The jurisdiction of the Supreme Court is invoked under 28 USC 1254

Parties

Petitioner

Edward H. Flint,

Respondents

James Shake, Judge; Audra Eckerle, Judge; Ann O'Malley Shake, Judge; Jane Does; John Does

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STATEMENT OF THE CASE

Procedural history

This action arises out of a complaint filed out in Jefferson County Kentucky Circuit Court on October 2007 case No. 07-CI-10558. Petitioner was Pro, Se and was 76 years old. The case was about a flawed election for officers at a Condo Association where Petitioner lived. Petitioner believed based on evidence he had seen, the ballots had been substituted for and when the Board of Directors refuse to response to his letters asking that a meeting be called and the Petitioner filed a suit.

The case was assigned to Division 13 Judge Fred Cowan of the Jefferson County Circuit Court. The Petitioner after subpoenaing the President of the Association for a deposition received a letter form the Counsel for the Defendants stating his client would not appear for the deposition and the letter showed a copy was also sent to another attorney Mr. Brennan S. Cox who Petitioner had never heard of. Petitioner checked and found Mr. Cox was a law partner of Judge Cowan, who had the case in Circuit Court.

After Petitioner filed a motion to compel with the Division 13, Judge Cowan, the Judge said he wanted the case mediated. Petitioner asked Judge Cowan to recuse himself from the case and he did.

The case was assigned to Division 10 Judge Kathleen Voor Montano. After about four hearing in front of Judge Montano, on March 20, 2008 she recused herself, stating she discovered that Petitioner Flint knew her father-in-law about 15 years before.

The case was then assigned to Division 7 Judge Audra Eckerle. Counsel for the Defendants on April 8, 2008 filed for motion for summary judgment and the

court by order stopped Petitioner from taking any more discovery.

Judge Audra Eckerle on April 16, 2008 wrote a letter to Defendants Counsel Mr. Dennis Stilger stating she had received his motion for summary judgment and she reminded Mr. Stilger she must receive an AOC 280 Notice of Submission form before she could rule.
Mr. Stilger mailed the required AOC form to Judge Eckerle and Petitioner Edward Flint on April 25, 2008, which was a Friday.

On Monday April 28, 2008 Judge Eckerle marked the AOC 280 form as overruled regarding the motion. The form was signed by Judge Eckerle's Secretary R. Combs and the form showed it was mailed to AOC of April 28, 2008.

Mr. Stilger clocked in a new AOC 280 form at the clerks office on April 28, 2008.

This new form was marked issue decided granted on May 5, 2008 by Judge Ann Shake and shows mailed to AOC on May 7, 2008. Division 7 had been marked out and division 10 was put in place of seven.

An order signed by Judge Eckerle sending the case back to Division 10 appeared in the file. The order that Judge Eckerle signed stated **"In accordance with authorization set forth in the re-allotment order of the Chief Judge"**

Judge Montano the judge who had Petitioner's case till she disqualified herself on March 20, 2008, took ill and died on April 21, 2008.

Chief Judge Shake four days later on April 24, 2008 appointed his wife Judge Ann O'Malley Shake to set in for Judge Montana until the Governor appointed someone to take over Division ten.

Judge Ann Shake was not a full time judge but a retired judge only setting temporary.

Other relevant facts of the case

Kentucky Supreme Court issued a set of rules for the Thirtieth Judicial Circuit of Jefferson County Circuit Court which was last approved on July 11, 2006.

Rule 11 of the Supreme Court rules contain the following text regarding civil cases 1101-1102-1103-

Rule- 11 ALLOCATION OF CASE DIQUALIFICATION OF JUDGES

1101 Method of Allottment
All cases shall be allotted equally and at random among the thirteen (13) divisions of the court. However the Chief Judge may receive a twenty-five percent (25%) reduction in criminal and civil cases assigned.

A. Civil Cases. The automated case register in the Circuit Courts Clerk's Office assigns all District Court Appeals and all other civil cases to the various division of the Court. The register has been programmed by the AOC to ensure both the randomness of the assignments and equal distribution of cases.

1102 Refiled Cases.
A. Civil Cases. Whenever a case has been dismissed without prejudice and is refiled, the parties shall, after allotment, have been transferred to that division from which it was dismissed. Whenever any Judge discovers the allotment to her division of a case so dismissed from another division, the

Judge shall immediately transfer the case to the division from which it was dismissed.

1103- Disqualification of Judge.

If a judge is disqualified pursuant to KRS 26A.015, the case shall be randomly reallotted to another member of the Jefferson Circuit Bench. If all judges of the Jefferson Circuit Bench are disqualified, the Chief Regional Judge shall certify the need to assign a special judge.

Under the Kentucky Supreme Court Code of procedures rules the word "shall" means must.

The Jefferson Circuit Court Rule 11 is simple, fair and clear.

1- When a case is filed, in Jefferson Circuit, the Court Clerk by an automated register assigns the case to a Division. No judge can give up a case and no judge gets to choose any case.

2- The Case remains with the division it's assigned forever, unless a Judge is disqualified by reasons outlined in Kentucky Statute 26A.015

3- If a Judge is disqualified for any reason the Court Clerk by the automated register assigns the case to another division.

4- If a case was dismissed without prejudice and is refiled, it has to be assigned by the Court Clerk by the automated register and then it is to be transferred to the original division.

5- The Kentucky Supreme Court designed these rule years ago, to make sure all persons filing lawsuit received a fair shake, to make sure the same judge would hear the complete case and the Supreme Court by Rule 11 made sure that cases were distributed evenly to all Judges. There are 13 Divisions in the Jefferson County Circuit and if every judge was allowed to move cases at will, it would create confusion to no end. These rules supplement the Kentucky Rules of Civil Procedure

6- Under Supreme Court Rule 11 there is no way a case can be transferred to another judge by judges for any reason.

7- Regardless of how a case is legally transferred it must be re-allotted by the automated register system.

8- There was no reason why the case in question should have been moved from division 7 to division 10 and under the Kentucky Supreme Court Rule 11 should not have been transferred.

9- Petitioner was denied due process of a fair trial of his case, a summary judgment decision that was found in Petitioner's favor once was changed, caused by the transferring of the case, by the three Respondents.

10- Chief Judge James Shake knew Rule 11 when he ordered Judge Audra Eckerle to re-allot the case to division 10 and he knew it was wrong to do so. As Chief Judge, he knows when cases are to be transferred and why, it his duty to see that Rule 11 is followed.

11- Judge Audra Eckerle knew Rule 11 and she knew she could not re-allot the case to another division regardless to what the Chief Judge orders.

12- Judge Ann O'Malley Shake knew Rule 11 and she knew not to accept the case from Judge Eckerle and should have notified the Court Administrator.

The three Respondents conspired to harm Petitioner and they succeed.

Petitioner does not know all of the facts; he was not allowed to take discovery before the trial court granted Summary judgment.

Arguments

A review of the Appeal Court's ruing entered on December 30, 2009 clearly shows that the court did not review or use the evidence materials that Petitioner has submitted with this petition.

It is also clear that the Appeal Court was protecting the Respondents because they are judges. The Appeals Court stated at the top of their order, "Not Recommended for full-text Publication"

The case in question should have never been moved out of Division seven (7). There was no reason by rule to transfer the case from Division 7 and Rule 11 prohibited it. Judge Eckerle made her decision regarding the summary judgment motion and she rejected the defendants, summary judgment motion.

The Kentucky Supreme Court rule 11 leaves no room regarding its meaning. It has a definite meaning and by the Supreme Court rules of procedures must be strictly inhered to. The rule was established to keep Judges in a large Court district from switching cases at will because the order entered on July 11, 2006 starts with these words, **"Upon recommendation of the Chief Judge of the Thirtieth Judicial Circuit and being otherwise sufficiently advised."**

Chief Judge James Shake had no juridical involvement of any type, at any time, in the case.

Judge James Shake knew that by ordering the case transferred he was violating Rule 11. Judge James Shake knew that ordering a Judge to give the case to another judge that wasn't assigned by Rule 11, was in violation of the Supreme Court Rules.

Judge Ann O'Malley Shake never at any time had any judicial involvement in the case and she knew she was violating Rule 11 if she asked for the case. She knew that accepting the case violated Rule 11.

Judge Audra Eckerle knew that it was her case and she knew she could not to give the case to another judge per rule 11. All cases must be reassigned by Rule 11. Judge Eckerle had no reason to give the case up, but if she had a reason, she knew how to disqualify herself. Regardless the case had to be randomly reallotted to another judge.

Judge James Shake was running for election as judge on the Kentucky Supreme Court and was soliciting donation for his election campaign.

Judge James Shake received and accepted a campaign donation from Defendants Counsel Mr. Dennis Stilger on May 19, 2008 and Judge James Shake's wife Judge Ann Shake sign the Defendant's Motion for Summary Judgment the next day May 20, 2008.

It is clear that besides breaking Kentucky Supreme Court rules Judge James Shake's and Judge Ann Shake's actions was in "clear absence of all jurisdictions."

Our county is exploding and in the process, falling apart, because of so many differents. Petitioner is 80 years old and after being Pro, Se in a couple of other law cases he is convinced that the justice system is leading the way to the unrest in America.

The fourteenth amendment gave due process to justice and the court system has taken this right away.

The Courts protects judges by the court's new made law. A judge is protected by absolute immunity for any reason. I will quote from Stump v. Sparkman 435 U.S 349, 356, 57 (1978) **"a judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority: rather, he will be subject to liability only when he has acted in the clear absence of all jurisdiction."**

If Stump V, Sparkman is the standard then the Rules of The Supreme Court of Kentucky Code of Judicial Conduct SCR 4.300 which contain Cannon 1-2-3-4-5, (the judiciary commandments) has no meaning, let alone Due Process. Absolute Immunity is in clear conflict with both state's Supreme Court Codes and Rules and Due Process

Every court in America in both Federal and State Courts is now quoting and using the Stump V. Sparkman case to protect judges for any and all reasons. There-by the courts have taken away the due process from the people and the integrity that assured citizens a fair and honest trial. Some judge in America has become dictators because they know they are protected by the law. Any

person that gets elected as a judge, could dictate the future of every citizen who comes before them.

The court system gets all types of judges, smart ones, ones dumb, sincere ones, mean ones, honest ones, dishonest ones, etc,it doesn't matter if every judge get immunity.

Judges have become God to dishonest attorneys. A Judge needs campaign financing to run for office and they have made slaves out of attorneys who must make a living. A judge with absolute immunity can control most attorneys, especially bad attorneys.

This honorable body should look at the harm done by granting absolute immunity to judges is doing to our county and the repercussions it has on the justice system.

Example, in a case that was filed to be tried by a jury the judge should not become involved except to shepherd the case to a trial. They should not use their position to see the case never gets to trial, such as granting summary judgment when there is no reason to. Some Judges don't care about the damage they cause, because they know that they are protected by absolute immunity. Eliminating absolute immunity would make honest judges out of dishonest judges.

Attorney are afraid to defend them self against the abuse they are receiving from judges, because the will lose their lively hood if they complain.

The ruling made in Stump V. Sparkman may have been a good ruling based on what happen at the time.

The Courts have cited that case many times and it keeps getting extended in meaning every time it is cited. Judges today use it for everything a mind can think up.

This body owes it to America and to the future of our country to clarify the Due Process and immunity for judges' issues. This body has a chance to help put this country back to the way our founding fathers wanted it to be. Fair and equal treatment for all.

An honest and fair judge doesn't need immunity and this country existed for over 200 years before the Stump V. Sparkman ruling in 1978.

America is under attack from many sides. This Petitioner believes that America cannot survive the way we all want it to be, without a true and honest Due Process system, which must come first.

If this court believes in the jury system, then why is the system not good enough for judges? Why do judges need to be protected? Americans don't believe any one should be granted absolute immunity. If they did, it would have been put it in the constitution

What makes Judges different that the rest of the citizens of America? Are they better people? Are they indispensable? Why do they receive immunity?

This issue and the results that will come from it, is not a political issue, but an issue that will determine the future of our families, our children's, and neighbor's.

As Jesus said, we will be judged, on the thoughts that were in our mind and the deeds we did, not on the words we say.

REASONS FOR GRANTING THE WRIT

1- The Respondents violated The Kentucky Supreme Court's Rules of Practice and Procedure of the Thirtieth Judicial Circuit, Jefferson Circuit Court and absolute immunity should never have been granted.

2- This court should not allow judges violating Court's rules and laws turn out to be the norm in America.

3- This court should review this case because the Court of Appeals had no intention of ruling against judges. The wording of their order states no evidence was presented and that is not so, as the files will show.

4- Covering up for offenses done by judges is the worse thing any court can do, if justice is to prevail in America.

5- This Court should review the Appeal Court's ruling order and plus all evidence materials previous submitted to the Trial Court and Appeal Court in this case. The Court of Appeals order shows they did not review all of the evidence and Petitioner is entitled to a full review of all evidence.

CONCLUSION

The Respondent judges violated the Kentucky Supreme Court Rules that injured Petitioner and did not deserve Absolute Immunity.

Judges cannot have jurisdiction in a case they obtained illegally.

This case should be returned to the trial court with instructions to hold a trial and let a jury judge the actions of the Respondents, based on the evidence. Cannon 1 states and I quote, "**An independent and**

honorable judiciary is indispensable to justice in our society" and further it states, **"and (judges) shall personally observe these standards so that the integrity and independence of the judiciary will be preserved"**
Cannon 2 states, **"A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary"**

The Cannons are the commandments of the judiciary system and to give judge's immunity, goes against the writers of Cannons and kicks them in the teeth.

The future of America depends on this court to define a set of rules, based on the Constitution, to assure that every citizen receives the same Due Process and also, so state's Supreme Courts can write A Code of Judicial Conduct, to match this court's rules.

America is crying out for justice for all.

This Petition is not the best worded, but it's the best a 80 year old man who is not trained in law and who does his own typing with one finger can do and he prays it is worded good enough to put his point across to this honorable body

Respectfully submitted,

s/ Edward H. Flint, Pro, Se.
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502-896-1219
Pro, Se, Counsel for Petitioner

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 09-5577

EDWARD H. FLINT, Plaintiff-Appellant,

v.

JAMES SHAKE, Judge;
AUDRA ECKERLE,Judge;
ANN O'MALLEY SHAKE, Judge
Defendants-Appellees,

and

JANE DOES; JOHN DOES, Defendants,

On Appeal from the United States District Court for the Western District of Kentucky

FILED: MAY 6, 2010

Before: MERRITT, MARTIN, and COLE, Circuit Judges.

Edward H. Flint petitions the court to rehear its order of December 30, 2009, affirming a district court order dismissing his civil rights complaint.

Upon review, the petition for rehearing is denied. We did not misapprehend or overlook any point of law or fact when we issuedd our prior order. Fed. R. App. P. 40(a).

Entered by Order of the Court

(s) Leonard Green
Leonard Green, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 09-5577

EDWARD H. FLINT, Plaintiff-Appellant,
v.
JAMES SHAKE, Judge;
AUDRA ECKERLE, Judge;
ANN O'MALLEY SHAKE, Judge,
Defendants-Appellees,
and
JANE DOES; JOHN DOES, Defendants,

On Appeal from the United States District Court for the Western District of Kentucky

FILED: JANUARY 21, 2010

Before: MERRITT, MARTIN, and COLE, Circuit Judges.

Edward H. Flint, proceeding pro se, appeals from a district court judgment dismissing his civil rights complaint. This case has been referred to a panel of the court pursuant to Rule 34(j)(1), Rules of the Sixth Circuit. Upon Examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

Seeking monetary and equitable relief, Flint sued three judges (James Shake, Audra Eckerle, and Ann O'Malley Shake) of the Jefferson County, Kentucky, Circuit Court, alleging that the defendants violated his rights by transferring his civil case between divisions without a proper reason and in violation of court rules.

He claimed that the defendants' conduct violated his "judicial right" and his equal protection rights. The district court granted the defendants' motions to dismiss, concluding that they were entitled to absolute judicial immunity for the actions taken in the scope of their official duties.

On appeal, Flint reasserts his claims that the defendants violated his rights by transferring his civil case between divisions and judges without reason and in violation of court rules.

Upon review, we conclude that the district court properly dismissed Flint's complaint. We review de novo and order dismissing a suit for failure to state a claim upon which relief may be granted. *See Fieger v. U.S. Attorney Gen.*, 542 F.3d 1111, 1116 (6th Cir. 2008). "Construing all well-pleaded allegations in the complaint as true, the Court may only dismiss if 'it appears beyond doubt that the plaintiff can prove no set of facts in support of the claims that would entitle him or her to relief.'" *Id* (quoting *Downie v. City of Middleburg Heights*, 301 F.3d 688, 693 (6th Cir. 2002)).

here, the defendants are entitled to judicial immunity. The Supreme Court has explicitly stated that a judge will not be deprived of immunity because the action he or she took was in error, was done maliciously, or was in excess of his or her authority. *See Stump v. Sparkman*, 435, U.S. 349, 356-57 (1978). Absolute judicial immunity is overcome only when a judge engages in non-judicial actions or when the judge's actions, though judicial in nature, are taken in complete absence of all jurisdiction. *See Mireles v. Waco*, 502 U.S. 9, 11-12 (1991).

"Absolute judicial immunity attaches only to actions undertaken in a judicial capacity." *Barnes v. Winchell*, 105 F.3d 1111, 1116 (6th Cir. 1997) (internal

quotations omitted). "Whether an act is judicial depends on the nature and function of the act, not the act itself," *Id.* In examining he functions normally performed by a judge, courts have that judicial acts involve resolving disputes between parties who have invoked the jurisdiction of the court. *Id.* The actions complained of here, i.e., transferring cases between divisions and judges, clearly involve judicial decisions in the managing of the court's docket. Flint does not dispute that the judges have the authority to transfer cases; he merely argues that it was done improperly in his case and that the transfers were motivated by the judges' desire to "impede" him. However, as stated above, a judge will not be deprived of immunity because the action he or she took was in error, was done maliciously, or was in excess of his or her authority. *See Stump*, 435 U.S. at 356-57. Hence, the district court properly concluded that the defendants were entitled to judicial immunity.

Accordingly, we affirm the district court's judgment. Rule 34 (j)(2)(C), Rules of the Sixth Circuit.

Entered by Order of the Court

(s) Leonard Green
Leonard Green, Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

CIVIL ACTION NO. 3:09CV-116-H

EDWARD H. FLINT, Plaintiff-Appellant,

v.

JUDGE JAMES SHAKE, et al.

Defendants-Appellees,

MEMORANDUM OPINION AND ORDER

FILED: April 27, 2009

The three Defendants, Judges James Shake, Audra Eckerle and Ann O'Malley Shake, have each moved for dismissal of all claims against them. The complaint alleges that these judges participated in one way or another in entering orders and transferring cases without any proper legal basis.

Judges are protected by absolute immunity for their judicial acts under both state law and in federal civil rights suits. In order to overcome a judicial immunity defense, Plaintiff must allege facts that would demonstrate that a judge's acts were not judicial in nature or that the judge acted "in clear absence of . . . jurisdiction. *Stump v. Sparkman*, 435 U.S. 349, 357 (1978). Even assuming for the purpose of this motion that plaintiff's allegations were true, Plaintiff cannot meet this burden because he fails to set forth in his complaint or response to the pending motions any facts to support his argument that any of Defendants were without jurisdiction to act in their capacities as a judge.

A judge is immune, under Kentucky law, from personal liability for those acts undertaken while that judge has jurisdiction over a case. Even when jurisdiction is contrary to law, judicial immunity still applies. *City of Louisville v. Bergel,* 610 S.W.2d 292, 293 (Ky. 1980). The question of whether Plaintiff's civil lawsuit was improperly transferred between judges is irrelevant when determining whether the actions a judge has taken were "judicial" in nature. The Kentucky Supreme Court held in *Baker v. Fletcher,* that a judicial act is defined as "any act that is of the nature normally performed by a judge and one in which the parties dealt with the judge in his official capacity." 204 S.W.39 589, 595 (Ky. 2006).

The general actions about which Plaintiff complains in this complaint are routine court activities, such as transferring cases from one judge to another. Judges routinely accept cases transferred to them from other divisions within a circuit court and make substantive rulings on motions presented to them. Even if accepting jurisdiction of Plaintiff's civil lawsuit was in violation of a court rule as Plaintiff contends, the act of doing so still meets the definition of "judicial act" the Kentucky Supreme Court articulated in the Baker case.

For these reasons, Plaintiff cannot state a cause of action against any of the judges in connection with the transfer of Plaintiff's case.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the motion of Defendants to dismiss is SUSTAINED and the claims against Defendants are DISMISSED WITH PREJUDICE.

This is a final order.

/s/ John G. Heyburn II, Judge
United States District Court

cc: Mr. Edward H. Flint, *Pro Se*
Counsel of Record

SUPREME COURT OF KENTUCKY

ORDER

IN RE: ORDER APPROVING THE RULES OF PRACTICE AND PROCEDURE OF THE THIRTIETH JUDICIAL CIRCUIT, JEFFERSON CIRCUIT COURT

ENTERED: July 11, 2006

Upon recommendation of the Chief Judge of the Thirtieth Judicial Circuit, and being otherwise sufficiently advised,

The attached rules of Practice and Procedure for the Thirtieth Judicial Circuit, Jefferson Circuit Court, are hereby approved. This Order shall be effective as of the date of this Order, and shall remain in effect until further orders of this Court.

/s/
CHIEF JUSTICE

RULE 11 ALLOCATION OF CASES, DISQUALIFICATION OF JUDGES

1101 Method of Allottment.
All cases shall be allotted equally and at random among the thirteen (13) divisions of the Court. However, the Chief Judge may receive a twenty-five percent (25%) reduction in criminal and civil cases assigned. Also, the Drug Court Judge may receive a 25% reduction of criminal cases assigned.

A. Civil Cases. The automated case register in the Circuit Court Clerk's Office assigns all District Court Appeals and all other civil cases to the various divisions of the Court. The register has been programmed by the AOC to ensure both the randomness of the assignments and the equal distribution of cases.

B. Criminal Cases. A stack of shuffled cards containing an equal number of cards marked for each of the thirteen (13) divisions, less the 25% case reductions allocated to the Chief and Drug Court Judges, shall be dropped in a drum. To further ensure randomness and equity of caseload, a separate drum is utilized for the assignment of murder indictments. The Grand Jury Foreperson, in open court, shall pull a card from the appropriate drum assigning the case to a division. The division shall be written on the indictment and initialed by the Judge in open court. Indictments containing only a Persistent Felony Offender Charge shall be automatically assigned to the Court where the original indictment was assigned.

C. Informations are presented by the Commonwealth Attorney's Office once weekly and are assigned by random draw to the thirteen divisions of Circuit Court in the Court Administrator's Office. They are initialed by an administrator.

1102 Refiled Cases.

A. Civil Cases. Whenever a case has been dismissed without prejudice and is refiled, the parties shall, after allotment, have the case transferred to that division from which it was dismissed. Whenever any Judge discovers the allotment to her division of a case so dismissed from another division, the Judge shall immediately transfer the case to the division from which it was dismissed.

B. Criminal Cases. Whenever a case has been dismissed and later presented to the Grand Jury for re-indictment, the Judge shall reassign the case to the original Trial Court. If a re-indictment or subsequent of the same person arises our of the same transaction or occurrence, the case shall be assigned to the senior action.

1103 Disqualification of Judge.

If a judge is disqualified pursuant to KRS 26A.-15, the case shall be randomly reallotted to another member of the Jefferson Circuit Bench. If all the judges of the Jefferson Circuit Bench are disqualified, the Chief Regional Judge shall certify the need to assign a special judge.
26A.015 Disqualification of justice or judge of the Court of Justice, or master commissioner.

1. For the purposes of this section the following words or phrases shall have the meaning indicated:
   (a) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;
   (b) "Fiduciary" includes such relationships as executor, administrator, conservator, trustee, and guardian;
   (c) Financial interest" means ownership of a legal or equitable interest however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:
      1. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, or ownership of government securities is a "financial interest: only if the outcome of the proceeding could substantially affect the value of the interest;
      2. An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.
2. Any justice or judge of the Court of Justice or master commissioner shall disqualify himself in any proceeding:
   (a) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings, or has expressed an opinion concerning the merits of the proceeding. Where in private practice or government service he served as a lawyer or rendered a legal opinion in the matter in controversy, or a lawyer with whom

he previously practiced law served during such association as a lawyer concerning the matter in controversy, or the judge, master commissioner, or such lawyer has been a material witness concerning the matter in controversy;

(b) Where he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a pecuniary or proprietary interest in the subject matter in controversy or in party to the proceeding;

(c) Where he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

1. Is a party to the proceeding, or an officer, director, or trustee of a party;
2. Is acting as a lawyer in the proceeding and the disqualification is not waived by stipulation of counsel in the proceeding filed therein;
3. is known by the judge or master commissioner to have an interest that could be substantially affected by the outcome of the proceeding;
4. Is to the knowledge of the judge or master commissioner likely to be material witness in the proceeding.

(e) Where he has knowledge of any other circumstances in which his impartiality might reasonably be questioned.

(3) (a) Any justice or judge of the Court of Justice disqualified under the provisions of this section shall be replaced by the Chief Justice.

(b) Any master commissioner disqualified under the provisions of this section or unable to discharge the duties of his office for any other reason shall be replaced by a special commissioner who shall be appointed by the judge of the court before

whom the action is pending. The special commissioner shall meet the same qualifications as a master commissioner and shall take an oath and execute a bond as the regular commissioner is required to do

Effective: July 1, 1982

History: Amended 1982 Ky, Acts ch. 141, sec. 41, effective July 1, 1982. — Created 1976 (1st Extra. Sess.) Ky, Acts ch. 22, sec. 4.

Note: 1980 Ky. Acts ch. 396, sec. 44 would have amended this section effective July 1, 1982. However, 1980 Ky. Acts ch. 396 was repealed by 1982 Ky. Acts ch. 141, sec. 146, also effective July 1, 1982.

KENTUCKY BAR ASSOCIATION
RULES OF THE SUPREME COURT OF KENTUCKY

JUDICIAL CONDUCT COMMISSION

SCR 4.300 Kentucky Code of judicial Conduct

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PREAMBLE

CANON 1
A judge shall uphold the integrity and independence of the judiciary.

CANON 2

A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

CANON 3

A judge shall perform the duties of judicial office impartially and diligently.

CANON 4

A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

CANON 5

A judge or judicial candidate shall refrain from inappropriate political activity.

APPLICATION OF THE CODE OF JUDICIAL CONDUCT

PREAMBLE

Our Legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American and Kentucky concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is intended to establish standards for ethical conduct of judges. It consists of broad statements called Canons, specific rules set forth in Sections under each Canon, A Terminology Section, An Application Section and Commentary. The text of the Canons and the Sections, including the Terminology and Application Sections, is authoritative. The Commentary, by explanation and example, provides guidance with respect to the purpose and meaning of the Canons and Sections. The Commentary is not intended as a statement of additional rules. When the text uses "shall" or "shall not," it is intended to impose binding.